

08 CV 6900

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILITH DOVE,

Plaintiff,

v.

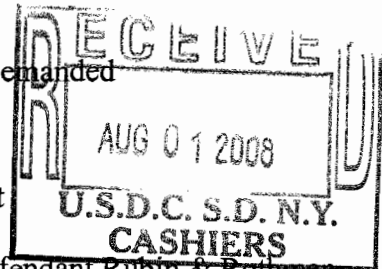
RUBIN & ROTHMAN, LLC,

Defendant.

No.

Jury Demanded

**Complaint for Violations of the
Fair Debt Collection Practices Act**



1. Plaintiff Lilith Dove files this complaint against Defendant Rubin & Rothman, LLC for its unfair, deceptive and illegal debt collection activities in violation of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692, *et seq.*

Parties

2. Plaintiff Lilith Dove is a citizen of the State of New York who resides within this district.

3. Dove is a "consumer" as that term is defined by §1692a(3) of the FDCPA, in that the alleged debt that Defendant Rubin & Rothman, LLC sought to collect from her is a consumer debt, incurred by Dove for personal purposes and purportedly owed to "Midland Funding, LLC."

4. Defendant Rubin & Rothman, LLC is a debt-collection firm with a principal place of business located in Islandia, New York.

5. Rubin & Rothman is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

6. Rubin & Rothman is a "debt collector" as that term is defined by §1692a(6) of the FDCPA.

7. The acts of the Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.

8. That all references in this complaint to Rubin & Rothman shall mean Rubin & Rothman or an employee or employees of Rubin & Rothman.

Jurisdiction and Venue

9. This Court has federal question jurisdiction under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331.

10. Venue is proper under 28 U.S.C. §1391b, as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

Factual Allegations

11. On or about August 30, 2007, Defendant Rubin & Rothman sent an initial letter to Dove, a copy of which is attached as Exhibit A, in an attempt to collect a consumer debt allegedly due to “Midland Funding, LLC.”

12. By letter sent by certified mail, return receipt requested, Dove disputed the debt and demanded verification (the “Dispute Letter”). A copy of Dove’s Dispute Letter is attached as Exhibit B.

13. Defendant received Dove’s Dispute Letter on September 26, 2007, within the 30-day validation set by the August 30, 2007 letter. A photocopy of the signed and dated return receipt is attached as Exhibit C.

14. On or about October 3, 2007, Dove received a letter from Defendant in an attempt to collect the debt. (See Exhibit D.)

15. On or about October 9, 2007, Defendant filed a summons and complaint with the Civil Court in New York County for the alleged amount of \$1,478.79 (See Exhibit E).

16. Shortly thereafter, Defendant sent a copy of the summons and complaint to Dove.
17. To date, Dove has not received verification of the debt.

Count I

Violations of the Fair Debt Collection Practices Act

18. Plaintiff hereby restates, realleges, and incorporates herein by reference paragraphs 1-17 as if set forth fully in this Count.
19. Section 1692g(b) of the FDCPA states as follows:

(b) If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.
20. By letter received by Defendant on September 26, 2007, within the thirty-day validation period, Dove disputed the debt and demanded verification.
21. Under §1692g(b), all debt collection activity should have ceased until Defendant Rubin & Rothman mailed written verification of the debt to Dove.
22. By filing suit against Dove in Civil Court in New York County for the alleged amount of \$1,478 without first providing written verification of the alleged debt, Defendant violated FDCPA §1692g(b).
23. By sending Dove a letter in an attempt to collect a debt without first providing written verification of the alleged debt, Defendant violated FDCPA §1692g(b).
24. Defendant is liable to Dove under the FDCPA.

WHEREFORE, Plaintiff Lilith Dove respectfully requests that this Court grant the following relief in her favor and against Defendant Rubin & Rothman, LLC:

- i. A declaratory judgment that Defendant's conduct violated the FDCPA;
- ii. Statutory damages as provided by Section 1692k of the FDCPA;
- iii. Actual damages as provided by Section 1692k of the FDCPA;
- iv. Attorneys' fees, litigation expenses, and costs; and
- v. Such other and further relief as the Court may deem just and proper.

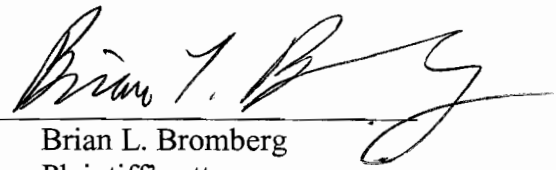
Jury Demand

Plaintiff demands trial by jury.

Dated: New York, New York
August 1, 2008

Respectfully Submitted,

Bromberg Law Office, P.C.

By: 
Brian L. Bromberg
Plaintiff's attorneys

Attorneys for Plaintiff:
Brian L. Bromberg
Bromberg Law Office, P.C.
40 Exchange Place, Suite 2010
New York, NY 10005
(212) 248-7906

Exhibit A



NEW JERSEY OFFICE:
190 NORTH AVENUE EAST
P.O. BOX 8
CRANFORD, N.J. 07016
TEL (908) 931-0017
FAX (908) 931-0660

MARY LACOSTE
DIRECTOR OF OPERATIONS

RICHARD LOCKWOOD
DIRECTOR OF PUBLIC RELATIONS

ATTORNEYS AT LAW
1787 VETERANS HIGHWAY SUITE 32
P.O. BOX 9003
ISLANDIA, N.Y. 11749
TEL (631) 234-1500
FAX (631) 234-1138
NYC DCA LIC. 1249720

1-800-298-6058

JOSEPH RUBIN (1927-1994)
KEITH H. ROTHMAN¹
ANNETTE T. ALTMAN¹
FRANCIS N. ANDERSON¹
KATHRYN N. ANDREOLLI^{1,2}
SARAH J. GREEN¹
JOSEPH LATONA¹
SUBY MATHEW¹
TIMOTHY M. MELTON¹
ERIC S. PILLISCHER¹
SCOTT H. RUMPH¹
ANGELO L. SIRAGUSA¹
DIANA K. ZOLLNER²

¹MEMBER N.Y. BAR
²MEMBER N.J. BAR

X REPLY TO N.Y. OFFICE
_ REPLY TO N.J. OFFICE

August 30, 2007

LILITH DOVE
421 W 43RD ST APT 2E
NEW YORK, NY 10036

CREDITOR: MIDLAND FUNDING LLC
AMOUNT OF DEBT: \$1,480.61
OUR FILE NO: 588238

Dear Sir/Madam,

As of the date of this letter, the creditor has a claim against you in the above amount. We must ask you to contact us to discuss payment in full of the debt or a payment arrangement.

UNLESS YOU DISPUTE THE VALIDITY OF THE DEBT, OR ANY PORTION THEREOF, WITHIN 30 DAYS AFTER YOUR RECEIPT OF THIS LETTER, WE WILL ASSUME THE DEBT TO BE VALID. IF YOU NOTIFY US IN WRITING WITHIN THE 30 DAY PERIOD THAT THE DEBT, OR ANY PORTION THEREOF, IS DISPUTED, WE WILL OBTAIN VERIFICATION OF THE DEBT OR A COPY OF A JUDGMENT AGAINST YOU AND MAIL A COPY OF SUCH VERIFICATION TO YOU. UPON YOUR WRITTEN REQUEST WITHIN THE 30 DAY PERIOD, WE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

All checks should be sent directly to this office, payable to RUBIN & ROTHMAN, LLC.

In addition to personal checks, we accept MASTERCARD, VISA, WESTERN UNION and ELECTRONIC (ACH) TRANSFERS as payment. You may also make online check and credit card payments at RRLLC189.com.

WE ARE ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

RUBIN & ROTHMAN, LLC

By: 

ATTORNEY AT LAW

Exhibit B

421 W 43rd St
Apt 2E
NY NY 10036

Rubin and Rothman LLC
1787 Veterans Highway
Suite 32
P.O. Box 9003
Islandia, NY 11749

September 24th, 2007

TO WHOM IT MAY CONCERN:

I received a letter from you, dated August 30th 2007. Your file # is 588238. I do not know who you are and I do not know who Midland Funding is. I am not paying you or Midland Funding any money. I certainly never had any relationship with a company called Midland Funding. Also, any debt that I might possibly owe is, I believe, past the statute of limitations. Please send me documents showing me what this all about.

Sincerely,

Lilith Dove

LILITH DOVE

I am sending this letter by Certified Mail. Return receipt requested.

Exhibit C

SENDER: COMPLETE THIS SIDE

■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 ■ Print your name and address on the reverse so that we can return the card to you.
 ■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Rubin & Rothman LLC
 1787 Veterans Highway
 Suite 32
 P.O. Box 9003
 Islandia, NY 11749

2. Article Number
 (Transfer from service label)
 7007 0710 0003 8131 0141

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1640

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

ISLANDIA NY 11749

Postage	\$0.41	0057
Certified Fee	\$2.65	05
Return Receipt Fee	\$2.15	09/24/2007
Restricted Delivery Fee	\$0.00	
Total Postage & Fees	\$5.21	

Postmark Here

1787 Veterans Highway
 Suite 32
 P.O. Box 9003
 Islandia, NY 11749

PS Form 3800, August 2006 See Reverse for Instructions

Exhibit D

NEW JERSEY OFFICE:
190 NORTH AVENUE EAST
P.O. BOX 8
CRANFORD, N.J. 07016
TEL (908) 931-0017
FAX (908) 931-0660

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1787 VETERANS HIGHWAY SUITE 32
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ISLANDIA, N.Y. 11749
TEL (631) 234-1500

FAX (631) 234-1138

NYC DCA LIC. 1249770

1-800-298-6058 EXT. 192

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²MEMBER N.J. BAR

X REPLY TO N.Y. OFFICE
_ REPLY TO N.J. OFFICE

LILITH DOVE
421 W 43RD ST APT 2E
NEW YORK NY 10036

October 3, 2007

OUR FILE NO: 588238
CLIENT: MIDLAND FUNDING LLC
AMOUNT OF DEBT: \$1,493.01

Dear Sir/Madam

Please call me to discuss the status of your account.

Very truly yours,

VANESSA CLARKSON
COLLECTOR

WE ARE ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE
USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

Exhibit E

056216 CVN 2007
Filed N.Y. County, NY
10/09/2007

DON'T THROW IT AWAY!! TALK TO A LAWYER RIGHT AWAY! PART OF YOUR PAY CAN BE TAKEN FROM YOU(GARNISHEED). IF YOU DO NOT BRING THIS TO COURT, OR SEE A LAWYER, YOUR PROPERTY CAN BE TAKEN AND YOUR CREDIT RATING CAN BE HURT!! YOU MAY HAVE TO PAY OTHER COSTS TOO!!! IF YOU CAN'T PAY FOR YOUR OWN LAWYER BRING THESE PAPERS TO THIS COURT RIGHT AWAY. THE CLERK (PERSONAL APPEARANCE) WILL HELP YOU!

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

SUMMONS (COPY)

MIDLAND FUNDING LLC

Index No.
Plaintiff's Residence:
8875 AERO DRIVE SUITE 200
SAN DIEGO, CA 92123

Plaintiff

-against-

LILITH DOVE

The basis of venue designated is:
The defendant resides in
the county of NEW YORK

Defendant(s)

To the above named defendant(s):

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of New York, at the office of the Clerk of the said Court at 111 Centre Street, New York, New York in the County of New York, City and State of New York, within the time provided by law as noted below and to file your answer to the annexed complaint with the Clerk; upon your failure to answer, judgment will be taken against you for the sum of \$ 1,478.79 with interest thereon from 8/25/07, together with the costs of this action.

Dated: Islandia, New York
SEPTEMBER 28, 2007

RUBIN & ROTHMAN, LLC
Attorneys for Plaintiff
1787 Veterans Highway
Islandia, N.Y. 11749
(631) 234-1500

NOTE: The law provides that:

(a) If this summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or

(b) If this summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days after the proof of service thereof is filed with the Clerk of this Court within which to appear and answer.

DEFENDANT(S) ADDRESS:

D1: LILITH DOVE
421 W 43RD ST APT 2E NEW YORK, NY 10036

WE ARE ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

NYC DCA LIC. 1249720

Our File No.588238

6,672

21118- 635

F

SZC

!NO LA BOTE! !CONSULTE CON SU ABOGADO ENSEGUIDA! LE PUEDEN QUITAR PARTE DE SU SALARIO(EMBARGARLO). !SI UD.NO SE PRESENTA EN LA CORTE CON ESTA CITACION LE PUEDEN CONFISCAR SUS BIENES, (PROPIEDAD) Y PERJUDICAR SU CREDITO! !IAMBIEN ES POSIBLE QUE TENGA QUE PAGAR OTROS GASTOS LEGALES (COSTAS)! SI UD. NO TIENE DINERO PARA UN ABOGADO TRAIGA ESTOS PAPELES A LA CORTE INMEDIATAMENTE. VENGA EN PERSONA Y EL SECRETARIO DE LA CORTE LE AYUDARA.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

CITACION (COPIA)

MIDLAND FUNDING LLC

No. de epigrafe
La direccion del Demandante:
8875 AERO DRIVE SUITE 200
SAN DIEGO, CA 92123

Demandante,

Vs.

LILITH DOVE

La razon de haber designado
esta Corte es:
El Demandado vive en
el Condado de NEW YORK

Demandado.

Al demandado arriba mencionado:

USTED ESTA CITADO a comparecer en la Corte Civil de la Ciudad de Nueva York, Condado de New York, a la oficina del Jefe Principal de dicha Corte en 111 Centre Street, New York, New York en el Condado de New York, Ciudad y Estado de Nueva York, dentro del tiempo provisto por la ley segun abajo indicado y a presentar su respuesta a la demanda adjunta al Jefe de la Corte; si usted no comparece a contestar, se rendira sentencia contra usted en la suma de \$ 1,478.79 con intereses en dicha cantidad desde 8/25/07 incluyendo las costa de esta causa.

Fechado: Islandia, New York
SEPTEMBER 28, 2007

RUBIN & ROTHMAN, LLC
Abogado(s) del Demandante
1787 Veterans Highway
Islandia, N.Y. 11749
(631) 234-1500

NOTA: La Ley provee que:

(a) Si esta citacion es entregada a usted personalmente en la Ciudad de Nueva York, usted debe comparecer y responderia dentro de VEINTE dias despues de la entrega: o

(b) Si esta citacion es entregada a otra persona que no fuera usted personalmente, o si fuera entregada afuera de la Ciudad de Nueva York, o por medio de publicacion, o por otros medios que no fueran entrega personal a usted en la Ciudad de Nueva York, usted tiene TREINTA dias para comparacer y responder la demanda, despues de haberse presentado prueba de entrega de la citacion al Jefe de esta Corte.

D1: LILITH DOVE
421 W 43RD ST APT 2E NEW YORK, NY 10036

Estamos atentando collectar un deuda. Cualguier infomacion obtenida sera usado para este proposito. Esta comunicacion es de un colector de deuda.

NYC DCA LIC. 1249720

No. de Cuenta 588238 6,673 21118- 635 F SZC

MIDLAND FUNDING LLC

Plaintiff

-against-

COMPLAINT (COPY)

LILITH DOVE

Defendant(s)

Plaintiff, by its attorneys, complaining of the defendant(s), alleges:

AS AND FOR A FIRST CAUSE OF ACTION

1. Defendant(s) resides in the county in which this action is brought; or transacted business in the county in which this action is brought in person or through an agent, and this cause of action arose out of said transaction.
2. Plaintiff is a foreign corporation.
3. Defendant used a credit card issued by plaintiff's assignor, ACTION CARD and agreed to make payments for goods and services charged and/or cash advances made upon such card.
4. Defendant(s) failed to make the payments due pursuant to such agreement and \$ 1,478.79 is now due and owing to plaintiff from defendant(s), together with interest on \$ 1,478.79 from 8/25/07 at the rate of 9.00 % per annum.

AS AND FOR A SECOND CAUSE OF ACTION

5. Defendant(s) accepted plaintiff's statements without objection.
6. By reason thereof, an account was stated between plaintiff and defendant(s) in the aforesaid amount.

WHEREFORE, plaintiff demands judgment against defendant(s) in the sum of \$ 1,478.79, with interest on \$ 1,478.79 from 8/25/07 at the rate of 9.00 % per annum and the costs and disbursements of this action.

Dated: Islandia, New York
SEPTEMBER 20, 2007

RUBIN & ROTHMAN, LLC
Attorneys for Plaintiff
1787 Veterans Highway
Islandia, N.Y. 11749
(631) 234-1500

Deponent is an attorney associated with Rubin & Rothman, LLC. To the best of deponent's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the summons and complaint or the contentions therein are not frivolous as defined in section 130-1.-(c) of the Rules of the Chief Adm. and the matter was not obtained through illegal conduct or in violation of 22 NYCRR 1200.41-a (DR 7-111).

Dated: SEPTEMBER 28, 2007

/S/ _____
FRANCIS N. ANDERSON ANGELO L. SIRAGUSA

WE ARE ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

NYC DCA LIC. 1249720

Our File No.588238

6,674

21118- 635

F

SZC